



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/922,337

08/03/2001

John Blair

366.04

8212

7590 04/09/2007
DERGOSITS & NOAH LLP
GEOFFREY T. STANIIFORD
Four Embarcadero Center
suite 1150
San Francisco, CA 94111

EXAMINER

WINTER, JOHN M

ART UNIT

PAPER NUMBER

3621

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

04/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/922,337	BLAIR ET AL.	
	Examiner	Art Unit	
	John M. Winter	3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-11, 14, 15, 28-30, 34-36, 39 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8, 9, 14, 15, 28, 34, 35, 39 and 40 is/are rejected.
- 7) ☒ Claim(s) 10-11, 29-30 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3621

DETAILED ACTION

Claims 8-11,14-15,28-30,34-36,and 39-40 are pending.

Response to Arguments

The Applicant's arguments filed on January 27, 2007 have been fully considered.

The amended claims are rejected in consideration of Heindel et al.(US Patent 6,304,857).
See following rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9, 14, 15, 28, 34, 35, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Toole, Jr. et al. (US Patent 6,279,112) in view of Daly et al (US Patent 5,878,141) and further in view of Archibald et al (US Patent 5,825,883) and further in view of Heindel et al.(US Patent 6,304,857).

As per claim 14,

O'Toole, Jr. et al. ('112) discloses a method for transmitting content data over a computer network comprising

providing a first interface to a publisher to define content data objects;
providing a second interface to a user of a client computer to select content data objects from the publisher;(Figure 2)

providing a third interface to the publisher and the user of the client computer to select payment terms and conditions for the transmission of content data objects from the publisher to the user(Figure 4A);

providing a switching network to transmit content data objects from the publisher to the user upon request from the user;(Figure 4B)

wherein the network comprises an embedded system coupling the publisher to the user computer (Column 3, lines 10-20)

The examiner notes that the mere automation of a process does not render patentability.

O'Toole, Jr. et al. ('112) does not explicitly disclose managing a billing process for causing transfer of payment from the user to the publisher in exchange for transmission of requested content data objects, Daly et al, discloses managing a billing process for causing

Art Unit: 3621

transfer of payment from the user to the publisher in exchange for transmission of requested content data objects (Figure 6); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'Toole, Jr. et al. With the Daly et al method in order to allow the merchant to realize a profit from the transaction.

O'Toole, Jr. et al. ('112) does not explicitly disclose wherein the content data objects are processed for transmission according to a type of client computing device operated by the user to access the data objects, Archibald et al ('883), discloses wherein the content data objects are processed for transmission according to a type of client computing device operated by the user to access the data objects (Figure 1, column 3, lines 56-67); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'Toole, Jr. et al. With the Archibald et al ('883) method in order to allow the merchant to realize a profit from the transaction.

O'Toole, Jr. et al. ('112) does not explicitly disclose providing a gateway to a third party system for transmission of payment from the user to the publisher, Heindel et al. ('857), discloses providing a gateway to a third party system for transmission of payment from the user to the publisher (Column 8, lines 10-39); it would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the O'toole, Jr. et al. with the Heindel et al. ('857) method in order to allow the merchant to offload the cost of processing billing transactions.

Claims 8, 9, 15, 28, 34, 35, 39 and 40 are in parallel with claim 14 and are rejected for at least the same reasons.

Allowable Subject Matter

Claims 10-11, 29-30 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Winter whose telephone number is (571) 272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

Art Unit: 3621

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John Winter
Patent Examiner -- 3621

KAMBIZ ABDI
PRIMARY EXAMINER

